

# Exhibit E

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2 HIGHLY CONFIDENTIAL

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4 UNITED STATES DISTRICT COURT

5 SOUTHERN DISTRICT OF NEW YORK

6 -----x

7 IN RE SEPTEMBER 11 LITIGATION

8 No. 21 MC 97 (AKH)

9 -----x

10 February 11, 2008

9:00 a.m.

11

12 Videotaped Deposition of ROBERT J.

13 CAMMAROTO, taken by Plaintiffs, pursuant to

14 Notice, at the Hyatt Regency, Crystal City, 2799

15 Jefferson Davis Highway, Arlington, Virginia

16 before Tammy M. Pastor, a Registered

17 Professional Reporter, Certified LiveNote

18 Reporter and Notary Public within and for the

19 State of New York.

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2 MS. VARGAS: I am going to instruct  
3 the witness not to answer because general threat  
4 assessment topics have been requested by the  
5 aviation defendants, but still remain pending a  
6 decision upon the agency. When the agency makes  
7 a decision on that topic, you can pursue or not  
8 pursue depending upon the agency's threat  
9 assessment issues at that time.

10 MR. PODESTA: I am just asking him  
11 personally does he know.

12 MS. VARGAS: We can save personal  
13 capacity questions for the personal capacity  
14 portion of the deposition.

15 MR. PODESTA: That is going to be  
16 very unwieldy. I really don't see why we are  
17 drawing such a sharp distinction, but we will  
18 proceed since you instructed.

19 Q. What does the term "selectee" mean  
20 in the context of CAPPS?

21 A. In the context of CAPPS, sir, first  
22 of all, selectee is a very generic term that is  
23 used in the business, but in the context of  
24 CAPPS that is a person who has had the CAPPS  
25 applied to their reservation in the personal

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2 name reservation system of an air carrier. A  
3 weighting his has been applied to the  
4 information that has been supplied to the person  
5 making reservation. Determination has been made  
6 by the system, without human intervention, that  
7 in fact that person score is weighted to a point  
8 where we feel that there is not enough known  
9 about the person to have a level of confidence  
10 to where they can undergo routine processing and  
11 that in fact that person as a selectee their  
12 checked baggage would require additional  
13 scrutiny.

14 Q. In your answer I believe you said  
15 determination was made without human  
16 intervention, what did you mean by that?

17 A. CAPPs, as the acronym implies, is  
18 an automated system. It is computer based  
19 system there is an algorithm that was developed  
20 over several years, piloted in cooperation with  
21 Northwest Airlines, in particular. And that  
22 algorithm is run based on the information that  
23 is provided in the PNR.

24 Q. What entity determined and weighted  
25 the factors that went into the identification of

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2 CAPPs selectees?

3 MS. VARGAS: Objection. Mr.

4 Cammaroto is instructed not to answer only to

5 the extent that the answer would reveal the

6 weight and measures of the CAPPs program of.

7 MR. PODESTA: I am not asking that

8 at all.

9 MS. VARGAS: That's fine.

10 Q. I am asking what entity determined

11 and weighted the factors that went into the

12 determination of CAPPs selectees?

13 MS. VARGAS: He can answer the

14 question with that understanding.

15 A. Over the course of the development

16 of CAPPs certainly the FAA had the lead on that

17 obviously. Consulted with members of the

18 intelligence community, consulted with the

19 carrier with whom we entered into a contractual

20 agreement, gave a grant to Northwest Airlines to

21 develop it. And certainly also consulted with

22 Department of Justice.

23 Q. Was there a single entity that made

24 the final decision as to the identification and

25 weighting of the factors that went into the

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2 identification of CAPPS selectees?

3 A. I would have to say that would be

4 the assistant administrator of Civil

5 Administration Security.

6 Q. Of the Federal Aviation

7 Administration?

8 A. Yes, sir.

9 Q. What were the CAPPS factors looking

10 for, I am not asking for any specific CAPPS

11 factors, what were they trying to find out?

12 MS. VARGAS: Objection to the

13 form.

14 MR. MIGLIORI: Objection.

15 MS. VARGAS: Same limited

16 instruction, but you can answer.

17 A. Again, with the algorithm would

18 apply itself to is the information provided

19 through the person's reservation. You are all

20 familiar with making airline reservations and

21 sort of the information you supply when you do

22 that. And that information is taken and, again,

23 applied against the algorithm various factors

24 are weighted in the negative and positive, it

25 comes out with final score.

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2 Q. Did the CAPPS program have access  
3 to any information concerning the behavior or  
4 demeanor of the passenger as he or she presented  
5 himself or herself at the ticket counter or at  
6 the screening checkpoints on the day of his  
7 plight?

8 MS. HESSION: Objection.

9 A. No, sir, there was no behavioral  
10 aspect.

11 Q. Did any of the CAPPS factors take  
12 into account the behavior or demeanor of the  
13 passenger at the airport on the day of his  
14 flight?

15 MS. HESSION: Objection.

16 MR. MIGLIORI: Objection.

17 MS. VARGAS: Objection to the  
18 form.

19 A. I'm sorry, can you repeat the first  
20 part of the question.

21 Q. I will say the exact words so the  
22 objections can stay the same. Did any of the  
23 CAPPS factors take into account the behavior or  
24 demeanor of the passenger at the airport on the  
25 day of his flight?

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2 A. No, sir.

3 Q. Are you familiar, Mr. Cammaroto,

4 with the term Air Carrier Standard Security

5 Program or ACSSP as that term was used on or

6 before 9/11, 2001?

7 A. Yes, sir.

8 Q. What is an ACSSP?

9 A. Sir, the Air Carrier Standard

10 Security Program which exists under a different

11 name now with change in regulations, was a

12 standard compilation of requirements that the

13 Federal Aviation Administration under the

14 authority of 14 CFR, part 108 imposed on the

15 commercial air carriers certain groups of

16 commercial air carriers, not 100 percent of

17 them.

18 Q. Now are Air Carrier Standard

19 Security Programs included in the Code of

20 Federal Regulations?

21 A. They are not, sir, they are

22 authorized by part 108.

23 Q. Do the requirements set forth in

24 Air Carrier Standard Security Programs have a

25 force of federal regulations?

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2 A. Yes, sir.

3 Q. Do the Air Carrier Standard

4 Security Program set forth federal requirements

5 with which the air carriers are bound to comply?

6 A. Yes, sir.

7 Q. Can an airline be fined or

8 penalized by the Federal Aviation Administration

9 or could it, prior to 9/11, 2001, for failure to

10 comply with the requirements of its ACSSP?

11 A. Yes, sir.

12 Q. As of 9/11, 2001, had provisions

13 relating to CAPPS been incorporated into the Air

14 Carrier Standard Security Programs for the major

15 domestic air carriers?

16 A. Yes, sir, it had been.

17 MR. PODESTA: I'd like to now show

18 the witness Exhibit 2D which is the version

19 distributed last week by Condon & Forsyth of the

20 American Airlines ACSSP. I think we need to

21 have it marked as 2D. It is a slightly less

22 redacted version of the document which is

23 previously.

24 For reasons of logistics we are

25 providing, we will provide the counsel for the

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2 preferred method of passenger profiling for  
3 airlines with the computer capability to  
4 implement CAPPS?

5 MS. HESSION: Objection.

6 MS. VARGAS: Objection.

7 A. Yes, sir, it was.

8 Q. Prior to 9/11 did the FAA encourage  
9 airlines to use CAPPS if they had the computer  
10 capability to do so?

11 MS. VARGAS: Objection.

12 A. Yes, sir, we did.

13 Q. The introductory sentence of 7B on  
14 page 75 states that the profiling was to be  
15 applied at the initial point of contact with  
16 each originating passenger checking baggage. As  
17 of 9/11 did CAPPS apply at all to passengers who  
18 did not check baggage?

19 MS. VARGAS: Objection to the  
20 form.

21 A. No, sir, CAPPS was intended for  
22 persons checking baggage.

23 Q. As of 9/11 did identification as a  
24 CAPPS selectee have any consequences for a  
25 passenger who did not check baggage?

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2 A. Not as the standard approved

3 amendment, no.

4 Q. As of 9/11, what additional

5 security procedures were to be applied by the

6 airlines to CAPPS selectees that were not

7 applied to all other passengers?

8 MS. VARGAS: Are you asking under

9 the ACSSP requirements?

10 MR. PODESTA: Yes.

11 A. The ACSSP required a clearance

12 procedure for their checked baggage for CAPPS

13 selectees, I believe that is found elsewhere

14 here in this same section.

15 Q. As of 9/11 was the only consequence

16 of CAPPS selection that the passengers -- that

17 the selectee's checked baggage was to undergo

18 certain special security procedures?

19 MR. PEPE: Objection.

20 MS. VARGAS: Again, under the of

21 ACSSP requirements?

22 MR. PODESTA: Yes, under the ACSSP

23 requirements.

24 A. Yes, sir, that's correct.

25 Q. Are those procedures for the

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2 checked baggage belonging to a CAPPS selectee

3 outlined in section 7E of the ACSSP Exhibit 2D?

4 A. That is 7E, I would just point out

5 the copy of the plan supplied us in exhibit is

6 missing the designation of paragraph E, but I

7 believe on page 79A about two-thirds of the way

8 down it reads "clearance procedures for checked

9 baggage belonging to selectee identified

10 passenger profiling by the passenger identity

11 check."

12 Q. That is the beginning of that

13 section.

14 A. I believe that's what you're

15 talking about.

16 Q. What is the answer to my question?

17 A. Yes, sir, that's where it is found.

18 Q. Thank you. As of 9/11 were CAPPS

19 selectees subject to any different checkpoint

20 screening of their person or carry-on bags than

21 other passengers by virtue of their being CAPPS

22 selectees under the ACSSP requirements?

23 A. There were no additional measures

24 ascribed to CAPPS selectees at the checkpoint.

25 Q. As of 9/11 under the ACSSP, CAPPS

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2 requirements were CAPPS selectees required to be  
3 treated any differently from other passengers at  
4 the passenger screening checkpoints in terms of  
5 screening of their persons or carry-on bags?

6 MS. VARGAS: Objection to the  
7 form.

8 A. No, sir.

9 Q. As of 9/11, under the ACSSP  
10 requirements for CAPPS selectees, did a person's  
11 status as a CAPPS selectee make any difference  
12 in how he or she was to be processed at the  
13 security screening checkpoint?

14 A. No, sir, did not.

15 Q. As of 9/11, was there in effect any  
16 FAA requirement that checkpoint screening  
17 personnel be informed of the identity of CAPPS  
18 selectees?

19 A. No, sir, there was not.

20 Q. As of 9/11 to the extent you know  
21 did the tickets or boarding passes of CAPPS  
22 selectees identify them as selectees?

23 MS. HESSION: Objection.

24 MR. PEPE: Objection.

25 MS. VARGAS: Objection to the

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2 A. Yes. Category X are U.S. domestic

3 airports and the others are located overseas.

4 They are not under U.S. control.

5 Q. What was the basis for designation

6 of an airport as an extraordinary security

7 airport or extraordinary security location as

8 referenced in Appendix 7A of the ACSSP?

9 A. That would be conclusion arrived at

10 based on intelligence information regarding the

11 area. The airport, vulnerabilities believed to

12 be there given its infrastructure, its security

13 capabilities. And the desirability of U.S.

14 carriers as a target.

15 Q. As of 9/11 were any U.S. airports

16 designated as extraordinary security locations?

17 A. No, sir.

18 Q. I would like to refer you back to

19 part 2A, again, step 1 of Appendix III. The

20 second sentence of that paragraph reads "If the

21 person being screened does not alarm the

22 detector" referring back to the hand-held or

23 walk-through metal detectors "The person is

24 cleared to proceed beyond the screening points."

25 Do you see that provision?

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2 A. Yes, sir, I do.

3 Q. Is that an accurate statement of  
4 the FAA's guideline screening procedures as of  
5 9/11?

6 MR. PEPE: Objection.

7 A. Yes, sir, it is. I would just  
8 point out again we are referring to the person  
9 him or herself, not their carry-on, just the  
10 person.

11 Q. Yes. These questions only relate  
12 to the person of the individual.

13 A. Yes, sir.

14 Q. His clothing and his body.

15 A. Yes, sir.

16 Q. As of 9/11, if a person being  
17 screened did not alarm the metal detector, be it  
18 walk-through or hand-held, was that individual  
19 cleared under the ACSSP and the FAA's screening  
20 guidelines to enter the sterile area?

21 MS. HESSION: Objection.

22 MS. VARGAS: Objection. Can you  
23 read the question back.

24 (The pending question was read as  
25 follows:

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2 "Question: As of 9/11, if a  
3 person being screened did not alarm the metal  
4 detector, be it walk-through or hand-held, was  
5 that individual cleared under the ACSSP and the  
6 FAA's screening guidelines to enter the sterile  
7 area?"

8 A. Yes, sir. They would have been  
9 cleared, again their person would have been  
10 cleared.

11 Q. Yes, I am talking about the person  
12 not the bags, we will get to the bags later.

13 As of 9/11, were there any  
14 provisions of the ACSSP or the FAA screening  
15 guidelines that required air carriers to conduct  
16 any further screening of the persons of  
17 individuals who did not alarm the metal  
18 detector?

19 A. There were no such requirements,  
20 no, sir.

21 Q. As of 9/11 were there additional  
22 screening procedures in effect for persons who  
23 did alarm the metal detector on their initial  
24 pass?

25 A. Yes, sir.

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2 FAA's decision to maintain the four inch rule of

3 Appendix I?

4 A. Yes, sir.

5 Q. What is that understanding, what

6 were the primary bases of the FAA's decision to

7 maintain the four inch rule of Appendix I?

8 MR. MIGLIORI: Objection for this

9 and all questions on this line, I won't object

10 again.

11 MR. PEPE: Objection.

12 A. The working group that considered

13 this at the direction of General Steele as

14 related by Bruce Butterworth, again, who had a

15 very distinct recollection was that as noted on

16 the document 771, that there was no security

17 gain to be had by shortening the length that

18 three inches was still deadly or dangerous

19 object that two inches was deadly or dangerous

20 in some context or another.

21 That weapons that were not

22 manufactured as such, for instance, as a hunting

23 knife as a bayonet could be fashioned by items

24 either on board the plane or used for items that

25 were already on the plane, for instance, metal

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2 cutlery in first class that was in common use at  
3 that time, broken shards of glass. A commonly  
4 known method would be to break the lens of  
5 eyeglasses in half to create razor sharp object  
6 the length of the diameter of the lens of the  
7 eyeglasses.

8 Next item was diversion of scarce  
9 resources. We recognized with an ever  
10 increasing passenger load, but not necessarily  
11 increasing screener force, we had to in the  
12 context of the increasing threat that we felt we  
13 were facing there in the early through the mid  
14 90s, focus on the high priority threat items.  
15 In particular explosive devices as well as the  
16 more conventional knives and firearms.

17 We knew that by distracting the  
18 screeners to look for the smaller easily  
19 concealed items that this references, would sap  
20 a lot of those resources, would distract the  
21 screeners from looking for more definitive  
22 items, especially in light of the fact that  
23 short bladed knives, what I have heard  
24 characterized as Swiss Army knives and such were  
25 very, very common item at the checkpoint, seen

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2 MR. PODESTA: Yes.

3 MS. VARGAS: You can answer as to  
4 whether it is the FAA position.

5 A. The FAA was aware adjusting a metal  
6 detector, calibrating a metal detector to the  
7 level at which it could find razor blades would,  
8 as a corollary pick up a lot of I unintended  
9 masses of metal. I don't know sitting here  
10 whether or not that would include teeth  
11 fillings, zippers or rings.

12 Q. What is ACS-90?

13 A. ACS-90, as testified earlier, was  
14 an organization set up within Civil Aviation  
15 Security FAA post 9/11 which was tasked with  
16 putting together talking points such as this,  
17 briefing papers and gathering relevant  
18 documents.

19 Q. What do the initials ACS stand for?

20 A. ACS is a mail routing symbol that  
21 is dictating by Department of Transportation. A  
22 means FAA. And CS means Civil Aviation  
23 Security.

24 Q. So this document was prepared after  
25 9/11 by Aviation Civil Security personnel; is